

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6934 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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CHAMPABEN D BHAVSAR

Versus

OFFICER IN CHARGE

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Appearance:

MR MAHESH N BHAVSAR for Petitioner  
MR PS PATEL for M/S. HM BHAGAT 7 CO. for  
Respondent No. 1, 2

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CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 28/09/98

ORAL JUDGEMENT

Rule. Service of rule waived by Mr. P.S. Patel,  
learned advocate for M/s. H.M. Bhagat & Company, Ld.  
Solicitors to the Government.

2. Heard. The petitioner has brought under  
challenge impugned order dated 16/3/1998 rendered by the

respondent no.1 confirming the ex-parte order of the respondent no.2 directing the petitioner to make payment of deficit stamp duty in the sum of Rs. 31,060/ with fine in the sum of Rs.250/-. The impugned orders are based on the valuation of the property in question as envisaged u/S. 32 A of the Bombay Stamp Act, 1958.

3. The short grievance of the petitioner is that both the authorities have passed the impugned orders ex-parte and without affording appropriate opportunity to the petitioner of being heard into the matter.

4. At the first admission, following order was passed on 31/8/1998 :-

"Mr. Bhavsar, Ld. Advocate appearing for the petitioner submits that two contradictory notices have been served to the petitioners. They are at Annexs. 'C' and 'E' respectively. In the first notice, deficit stamp duty is shown to be Rs.830/- while in the other notice, deficit stamp duty is shown to be Rs.31,060/-. Notice returnable on 7th Sept. 1998. Direct service is permitted."

5. In the background of the aforesaid two contradictory notices, the submission is that in any event the appellate authority, namely the respondent no.1 has not given appropriate opportunity to the petitioner of being heard. In reply, it is submitted that the matter might be remanded to the respondent no. 2 for passing appropriate order in accordance with law after hearing the petitioner. Hence, in the facts of the case, following direction is issued :-

Since both the impugned orders are ex-parte orders and since the petitioner did not have appropriate opportunity of being heard into the matter, both the orders are hereby quashed and set aside and the matter is remanded to the first mentioned authority, namely the Stamp Collector for hearing and deciding the matter in accordance with law. For that purpose the respondent no.2 (the Stamp Collector) will issue appropriate notice to the petitioner before deciding the matter and decide the matter in accordance with law within a period of 4 weeks from the date of receipt of writ of this direction.

Rule made absolute in the above terms. No order as to cost. DSP.

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\*\*PVR\*\*sca693498j.